Statement of

Lee Ann Elliott

On Campaign Finance Reform

Before the
Committee on House Administration
U.S. House of Representatives

March 18, 2001
Phoenix, Arizona

Mr. Chairman, and members of the House Administration Committee,

I am appearing today to share with you my opinions on what has been called campaign finance reform. These opinions have been developed from my 18 years as a member of the Federal Election Commission, two years as Vice President of a campaign management firm, 17 years as an executive of a political action committee, and a long time participant in the political process.

My opinions have also been developed from my firm belief in the First Amendment and my respect for the United States Supreme Court.

As you know, the U. S. Supreme Court's most celebrated case concerning campaign finance is Buckley v. Valeo, 424 U.S. 1, (1976). In that opinion the Court told Congress:

> Democracy depends on a well-informed electorate, not a citizenry legislatively limited in its ability to discuss and debate candidates and issues.
>
> In the free society ordained by our Constitution it is not the government but the people – individually as citizens and candidates and collectively as associations and political committees – who must retain control over the quantity and range of debate on public issues in a political campaign.
>
> But the concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment, which was designed to secure the widest possible dissemination of information from diverse and antagonistic sources, and to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people.

I believe a prohibition of soft dollars to political party committees is inconsistent with Buckley v. Valeo and therefore would not withstand constitutional scrutiny.

With this preface in mind, I would like to talk to you about campaign finance reform and particularly about the soft money used by political parties.

1. I do not believe there is a soft money crisis, but I do believe there is a hard money crisis in campaign finance.

The Federal Election Campaign Act of 1971 was substantially amended in 1974. That Act put a limit of $1,000 on how much an individual could contribute to a federal candidate per election and it has not been changed in the 27 years since enactment.

During these 27 years, inflation has eroded the value of a $1,000 contribution to less than $330. In 1974 the cost of a first class postage stamp was ten cents. Today that stamp costs 34 cents. By my estimation, the market basket cost of political goods has actually out-paced inflation. Some of these costs are for printing, polling, computers, and TV production and placement.

With scarce hard dollars, there is no place in today's campaigns for volunteers because of the need for expensive technical help and speed. The outdated hard dollar limits have simply made grass roots campaigning unaffordable.

Is it any wonder that federal candidates must look to their respective political parties for help? And that help, too, is limited by the Federal Election Campaign Act.

Political parties are squeezed. They crave hard dollars. However, unlike corporations and unions, parties must spend hard dollars to raise more hard dollars. Fundraising is the most expensive activity of political parties and decimates the hard dollar account.

2. Political parties only use soft dollars for activities that do not have to be paid for with hard dollars, are fully reported, and are essential to the democratic process.

For the last few years, all the soft dollars raised by the national political parties are reported to the Federal Election Commission and are available for inspection by anyone within 48 hours and usually within 24 hours. There is nothing hidden. All the contributions of this nature are open.

If political parties were prohibited from accepting soft dollars, it would significantly weaken the political parties. In addition, a vast underground of unreported soft dollar expenditures would be created. It is my opinion these dollars would still be spent by the individual donor in political ways - either in the name of another, or as issue ads. In any case they could be hidden and undisclosed.

Any reform that may undermine disclosure is contrary to the few successes of our current system. **Reporting is very important since it is one of the few ways in which contributions from foreign nationals can be detected.**

Only if contributions were spent as unlimited independent expenditures, would they be reported to the Federal Election Commission, and then only if certain thresholds were met. Independent expenditures will always be with us since they have been upheld specifically by the Supreme Court. Independent expenditures strike fear and anguish into the hearts of federal candidates. As David Broder reported in the Arizona Republic on March 12, 2001, "... many senators worry more about facing an unexpected barrage of ads, financed by an unknown interest group or individual, than they do about their party collecting soft money ...."

I also fail to see the corrupting influence of soft dollars to party committees. Political parties do not have legislative policies. The political party is one of the last places one would go to promote or defeat legislation, or to even inquire as to the status of legislation. In the fast moving pace of Washington, one would seek the opinion of the legislative majority or minority leaders or Committee chairmen. Political parties do not traffic in legislative favors. Political parties do not lobby Congress. They do not broker legislative positions for contributors.

Political parties do have a political policy and that policy is summed up in "we want more of us than there are of you." They concentrate on elections and candidates, not office holders. But without soft dollars, they could not build the party, help state candidates, or service the candidates who look to them for guidance.

3. Corporations, labor unions, and issue groups can avoid trouble under the FECA by omitting "express advocacy" of a federal candidate, perhaps in an issue ad paid for with soft dollars.

Yet these ads can be directed to an electorate with little doubt as to what candidate fits the views of the group sponsoring the ad. As a matter of fact, the ad can mention a candidate as long as there is no "express advocacy". And the courts also have upheld this situation. I am much more concerned about this unreported soft dollar spending than I am about reported party soft dollar receipts.

Some legislative proposals try to regulate issue ads by replacing the "express advocacy" standard with an "electioneering" standard. The Federal Election Commission tried this and the courts rejected it. I strongly suggest you study those cases before going down that path. Nor would it be a good idea, in my opinion, to make the Commission the "speech police."

And I strongly disagree with the notion that money buys legislative outcomes. In fact, I am offended by the idea. If it were true, we would have court cases alleging bribery reported in the paper routinely, for bribery is a criminal offence. We do not for this simple reason. Money follows philosophy, it does not create it. Contributors give money to people who agree with them, not to those who do not.

4. I would like for you to consider two suggestions that would not upset the balance in the Act.

The 1974 amendments to the Federal Election Campaign Act were comprehensive. All the political players, - candidates, political parties, political committees, contributors – felt they had a legitimate role in the political process. The Act was balanced like an equation.

The first suggestion is to address the hard dollar crisis and raise the contribution limits, at least in line with inflation, so that candidates or their committees, as well as the parties, do not have to spend so much time and money in fundraising.

The second suggestion is a disclosure idea. At the present time TV stations are only required to put buy orders that are placed by federal candidates in their public file for public inspection. Other spots mentioning federal candidates paid for by third parties, such as issue groups, are not in the public file and are not available for public inspection. The law could be amended to require TV stations to place buy orders for any spot that mentions a candidate in their public file. Reporters and others could determine who sponsored or paid for ads and how much was paid. This idea would increase disclosure without a costly big government program that would be almost impossible to enforce if disclosure to the government was required.

Other reform ideas that pick at one part or pick at another will throw off the balance of the Act. There will be losers and winners. And the electorate will not be a winner. Reform needs to be comprehensive so that all the political players feel they have a legitimate role in the process.

Thank you for the opportunity to testify